IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8175 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JAMANABEN WIFE OF BABUBHAI KODARBHAI CHHARA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8175 of 2004

MR HR PRAJAPATI for Petitioner No. 1

MR MR PRAJAPATI for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE C.K.BUCH

Date of decision: 08/12/2004

ORAL JUDGMENT

Heard Mr.H.R. Prajapati, learned counsel appearing for the petitioner-detenu and Ms.H.B.Punani,

ld.AGP, appearing on behalf of the respondents.

2. By this petition under Article 226 read with Articles 21 and 22(5) of the Constitution of India, the petitioner-detenu has challenged the legality and validity of the order of detention dated 1st June, 2004, passed by the Commissioner of Police, Ahmedabad City in exercise of the powers conferred on him under Section 3(2) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as 'the Act') against the petitioner-detenu. The petitioner-detenu is branded as "bootlegger" as defined under Section 2(b) of the Act.

3. It has been submitted by ld. counsel Mr.Prajapati appearing for the petitioner-detenu that the present detenu is a co-detenu of the petitioner of Special Civil Application No.8152 of 2004 and both the petitioner-detenus came to be detained under the Act vide impugned order of detention on the same grounds. It is further submitted by ld. counsel Mr.Prajapati that today, this Court has quashed and set aside the impugned order of detention mainly on one ground while dealing with the aforesaid petition i.e. Spl.C.A. No.8152 of 2004, today i.e. on 8th December, 2004. Along with the petitioner-detenu, in connection with the said offence, another lady was also arrested, who is the petitioner of above mentioned Spl. C.A. No.8152 of 2004 and detained under the Act. In view of above, it has been submitted by ld. counsel Mr.Prajapati that on the ground of parity also the petitioner-detenu being co-detenu is required to be released over and above the grounds mentioned in the aforesaid petition which are practically same which are advanced in the abovementioned writ petition filed by the co-detenu. The learned counsel appearing for the petitioner-detenu has also taken this Court through the grounds raised in the memo of this petition and arguments advanced which are practically similar to those raised in the above-referred petition filed by the co-detenu.

4. So, adopting the reasons assigned by this Court in Spl.C.A. No.8152 of 2004, preferred by co-detenu decided by this Court today i.e. on 8th December, 2004, and also on the additional ground of parity, the present petition requires to be allowed and impugned order of detention requires to be quashed and set aside.

5. In view of the above, the petition is allowed. The order of detention dated 1st June, 2004, passed by the respondent no.2 herein, is hereby quashed and set aside and the petitioner-detenu is hereby ordered to be set at liberty forthwith, if no longer required in any

other case. Rule is made absolute with no order as to costs. Direct Service is permitted.

Registry is directed to place a copy of decision of this Court in Spl.C.A. No.8152 of 2004 with the papers of this petition.

(C.K. Buch, J)

Aakar